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19 Attorneys for Defendants

20 PACIFIC BELL TELEPHONE COMPANY,
21 AT&T SERVICES, INC., and
22 AT&T OPERATIONS, INC.

23 UNITED STATES DISTRICT COURT
24 NORTHERN DISTRICT OF CALIFORNIA
25 SAN FRANCISCO DIVISION

26 _____
27 JOY NWABUEZE, individually and on behalf)
28 of a class of similarly situated individuals,) Case No. CV 09-01529 SI
29 Plaintiff,) STIPULATION AND REQUEST FOR
30 vs.) ORDER REGARDING THE RE-FILING
31) OF DEFENDANTS' MOTION TO
32 DISMISS
33 AT&T INC., a Delaware corporation;)
34 PACIFIC BELL TELEPHONE COMPANY) Courtroom: 10
35 d/b/a AT&T CALIFORNIA, a California) Judge: Hon. Susan Illston
36 corporation; AT&T SERVICES, INC., a)
37 Delaware corporation; AT&T OPERATIONS,) First Amended Class Action Complaint
38 INC., a Delaware corporation; and DOES 1) Filed: August 13, 2009
39 through 21,)
40 Defendants.)
41 _____

42 WHEREAS, the parties previously filed a stipulation and proposed order on September 7,
43 2010 (Document No. 76) to withdraw the motion to dismiss the action pursuant to Federal Rules
44 of Civil Procedure, Rule 12(b)(6) of Defendants Pacific Bell Telephone Company, AT&T
45 Services, Inc. and AT&T Operations ("Defendants");

1 WHEREAS, on September 8, 2010, the Court entered the Order withdrawing the motion
2 to dismiss without prejudice to re-file said motion at a later date, without further briefing or oral
3 argument (Document No. 77);

4 WHEREAS, Defendants now seek to re-file the motion to dismiss and all supporting
5 documentation;

6 WHEREAS, Plaintiff in response seeks to re-file her opposition and all supporting
7 documentation;

8 WHEREAS the documents associated with Defendant's motion to dismiss and Plaintiff's
9 opposition are as follows in the Court's docket:

- 10 • MOTION OF DEFENDANTS PACIFIC BELL TELEPHONE COMPANY, AT&T
11 SERVICES, INC., AND AT&T OPERATIONS TO DISMISS PLAINTIFF'S FIRST
12 AMENDED COMPLAINT [F.R.C.P. 12(B)(6)]; SUPPORTING MEMORANDUM
13 **(Document No. 44);**
- 14 • REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF MOTION OF DEFENDANT
15 PACIFIC BELL TELEPHONE COMPANY, AT&T SERVICES, INC., AND AT&T
16 OPERATIONS, INC. TO DISMISS PLAINTIFF'S FIRST AMENDED CLASS
17 ACTION COMPLAINT [F.R.C.P. 12(B)(6)]; MEMORANDUM OF POINTS AND
18 AUTHORITIES IN SUPPORT THEREOF **(Document No. 45);**
- 19 • EXHIBITS RE [45] REQUEST FOR JUDICIAL NOTICE **(Document No. 46);**
- 20 • [PROPOSED] ORDER GRANTING MOTION OF DEFENDANTS PACIFIC BELL
21 TELEPHONE COMPANY, AT&T SERVICES, INC., AND AT&T OPERATIONS,
22 INC. TO DISMISS PLAINTIFF'S FIRST AMENDED CLASS ACTION
23 COMPLAINT [F.R.C.P. 12(B)(6)] **(Document No. 47);**
- 24 • PLAINTIFF'S MEMORANDUM IN OPPOSITION TO MOTION TO DISMISS
25 PLAINTIFF'S FIRST AMENDED COMPLAINT **(Document No. 57);**
- 26 • REPLY MEMORANDUM IN SUPPORT OF MOTION OF DEFENDANTS
27 PACIFIC BELL TELEPHONE COMPANY, AT&T SERVICES, INC., AND AT&T
28 OPERATIONS, INC. TO DISMISS PLAINTIFF'S FIRST AMENDED COMPLAINT

1 [F.R.C.P. 12(B)(6)] (**Document No. 58**);

- 2 • LETTER FROM JOHN G. JACOBS LETTER TO COURT (**Document No. 65**);
- 3 • PLAINTIFF'S REQUEST TO SUBMIT ADDITIONAL AUTHORITY IN
- 4 OPPOSITION TO DEFENDANTS' MOTION TO DISMISS PLAINTIFF'S FIRST
- 5 AMENDED COMPLAINT (**Document No. 66**);
- 6 • DEFENDANTS' OBJECTION TO PLAINTIFF'S REQUEST TO SUBMIT
- 7 ADDITIONAL AUTHORITY IN OPPOSITION TO DEFENDANTS' MOTION TO
- 8 DISMISS PLAINTIFF'S FIRST AMENDED COMPLAINT [F.R.C.P. 12(B)(6)]
- 9 (**Document No. 67**); and
- 10 • Hearing Transcript of November 20, 2009 re: motion to dismiss (**Document No. 61**).

11 NOW THEREFORE, it is hereby stipulated by and between the parties, through their
12 respective counsel, that the parties request an order from the Court deeming that Defendants'
13 Motion to Dismiss and all supporting and opposing documents (as listed above) to be re-filed as
14 of the date of the Court's Order.

15 Dated: October 14, 2010.

16 PILLSBURY WINTHROP SHAW PITTMAN LLP
17 ROXANE A. POLIDORA
18 DOUGLAS R. TRIBBLE
19 CONNIE J. WOLFE

By /s/ Roxane A. Polidora

Roxane A. Polidora
Attorneys for Defendants
PACIFIC BELL TELEPHONE COMPANY,
AT&T SERVICES, INC., and
AT&T OPERATIONS, INC.

22 Dated: October 14, 2010.

23 KELLER GROVER, LLP
24 JEFFREY F. KELLER
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26 JOHN G. JACOBS
27 BRYAN G. KOLTON
28 DAVID SCHACHMAN & ASSOCIATES, P.C.
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By /s/ John G. Jacobs

John G. Jacobs
Attorneys for Plaintiff
JOY NWABUEZE

**ATTESTATION OF SIGNATURE
(N.D. Cal. General Order 45)**

I, Roxane A. Polidora, hereby attest that concurrence in the filing of the following document: STIPULATION AND REQUEST FOR ORDER REGARDING THE RE-FILING OF DEFENDANTS' MOTION TO DISMISS has been obtained from all of the signatories.

Dated: October 14, 2010

/s/ Roxane A. Polidora

1 **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

2 The motion of Defendants Pacific Bell Telephone Company, AT&T Services, Inc.
3 and AT&T Operations to dismiss this action pursuant to Federal Rules of Civil Procedure,
4 Rule 12(b)(6), originally filed on September 18, 2009 and heard on November 20, 2009, is
5 hereby deemed re-filed, along with all supporting and opposing documents as listed below:

- 6 • MOTION OF DEFENDANTS PACIFIC BELL TELEPHONE COMPANY,
7 AT&T SERVICES, INC., AND AT&T OPERATIONS TO DISMISS
8 PLAINTIFF'S FIRST AMENDED COMPLAINT [F.R.C.P. 12(B)(6)];
9 SUPPORTING MEMORANDUM (**Document No. 44**);
- 10 • REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF MOTION OF
11 DEFENDANT PACIFIC BELL TELEPHONE COMPANY, AT&T SERVICES,
12 INC., AND AT&T OPERATIONS, INC. TO DISMISS PLAINTIFF'S FIRST
13 AMENDED CLASS ACTION COMPLAINT [F.R.C.P. 12(B)(6)];
14 MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF
15 (**Document No. 45**);
- 16 • EXHIBITS RE [45] REQUEST FOR JUDICIAL NOTICE (**Document No. 46**);
- 17 • [PROPOSED] ORDER GRANTING MOTION OF DEFENDANTS PACIFIC
18 BELL TELEPHONE COMPANY, AT&T SERVICES, INC., AND AT&T
19 OPERATIONS, INC. TO DISMISS PLAINTIFF'S FIRST AMENDED CLASS
20 ACTION COMPLAINT [F.R.C.P. 12(B)(6)] (**Document No. 47**);
- 21 • PLAINTIFF'S MEMORANDUM IN OPPOSITION TO MOTION TO DISMISS
22 PLAINTIFF'S FIRST AMENDED COMPLAINT (**Document No. 57**);
- 23 • REPLY MEMORANDUM IN SUPPORT OF MOTION OF DEFENDANTS
24 PACIFIC BELL TELEPHONE COMPANY, AT&T SERVICES, INC., AND
25 AT&T OPERATIONS, INC. TO DISMISS PLAINTIFF'S FIRST AMENDED
26 COMPLAINT [F.R.C.P. 12(B)(6)] (**Document No. 58**);
- 27 • LETTER FROM JOHN G. JACOBS LETTER TO COURT (**Document No. 65**);

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- 1 • PLAINTIFF’S REQUEST TO SUBMIT ADDITIONAL AUTHORITY IN
- 2 OPPOSITION TO DEFENDANTS’ MOTION TO DISMISS PLAINTIFF’S
- 3 FIRST AMENDED COMPLAINT (**Document No. 66**); and
- 4 • DEFENDANTS’ OBJECTION TO PLAINTIFF’S REQUEST TO SUBMIT
- 5 ADDITIONAL AUTHORITY IN OPPOSITION TO DEFENDANTS’ MOTION
- 6 TO DISMISS PLAINTIFF’S FIRST AMENDED COMPLAINT [F.R.C.P.
- 7 12(B)(6)] (**Document No. 67**); and
- 8 • Hearing Transcript of November 20, 2009 re: motion to dismiss (**Document No.**
- 9 **61**).

10
11 Date: _____



The Honorable Susan Illston
United States District Judge

CERTIFICATE OF SERVICE

I hereby certify that on October 14, 2010, a true and correct copy of STIPULATION AND REQUEST FOR ORDER REGARDING THE RE-FILING OF DEFENDANTS' MOTION TO DISMISS was electronically transmitted to the Clerk of the Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to all ECF registrants in this case.

/s/Kathy Stout

Kathy Stout